

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC 20591

In the matter of the petition of

**TURTLES FLY TOO, INC.**

For an exemption from § 61.113(c)  
of Title 14, Code of Federal  
Regulations

Exemption No. 107787

Regulatory Docket No. **FAA-2017-1167**

**GRANT OF EXEMPTION**

By letter submitted to the docket December 7, 2017, Mr. Leslie Weinstein, President, Turtles Fly Too, Inc. (TF2), 4911 Parkwood Street, Boise, ID 83704 petitioned the Federal Aviation Administration (FAA) on behalf of TF2 for an exemption from § 61.113(c) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would allow TF2 to reimburse its volunteer pilots for fuel costs incurred while transporting rescued sea turtles to rehabilitation facilities. The FAA has also determined that TF2 would also require an exemption from § 61.113(a) to obtain the relief sought in its petition.

**The petitioner requests relief from the following regulation:**

Section 61.113(c) prescribes that a private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.

**The petitioner requires relief from the following regulation:**

Section 61.113(a) prescribes that, except as provided in paragraphs (b) through (h) of that section, no person who holds a private pilot certificate may act as pilot in command of an aircraft that is carrying passengers or property for compensation or hire; nor may that person, for compensation or hire, act as pilot in command of an aircraft.

**The petitioner supports the request with the following information:**

TF2 assists National Oceanic and Atmospheric Administration (NOAA) Fisheries rescue hundreds of cold-stunned sea turtles. Mass Audubon Wellfleet Bay Wildlife Sanctuary rescues these sea turtles from the beach and takes them to the New England Aquarium for

assessment and initial treatment. Once the turtles are stabilized, TF2 enlists donated general aviation flights to transport the turtles to rehabilitation facilities throughout the Atlantic and Gulf coasts as local facilities do not have the resources to provide long-term rehabilitation care for these turtles.

TF2 notes that the sea turtles are an endangered species and that the Kemp's Ridley turtle, the most endangered of them all, constitutes over 90 percent of the turtles rescued.

In support of TF2's petition for exemption, the NOAA Regional Administrator, National Marine Fisheries Service, Greater Atlantic Regional Fisheries Office, stated in a letter dated September 27, 2017:

These transports are only possible with donations from 'Turtle Fliers,' the dedicated, generous pilots associated with Turtles Fly Too. Using flights instead of ground transport reduces travel time and, therefore, stress to these turtles and allows them to be moved to locations farther away from the Northeast.

The petitioner further states that the 2017 cold stun season was projected to be one of the most challenging, as the generous support of the pilot aircraft owners TF2 and NOAA Fisheries depend on, has been overshadowed by the humanitarian efforts in response to hurricanes Irma and Harvey and the California fires. The pilots who have traditionally donated their time and services have exhausted their bank accounts by flying the much-needed humanitarian efforts over the past few months.

**The FAA's analysis is as follows:**

A summary of the petition was published in the Federal Register on April 12, 2018, 83 FR 15895. No comments were received.

As summarized below, the FAA has granted exemptions for reimbursement for operations involving humans who are in need of medical care (Exemption Nos. 1009, 10019, and 12627). The FAA has also granted exemptions for reimbursement involving charitable efforts to assist in the migration of whooping cranes and denied an exemption for reimbursement involving transportation of domestic animals for veterinary care.

- Grant of Exemption No. 10009 (Mercy Medical Airlift, Angel Flight Mid-Atlantic, and Airlift Hope of America) and No. 10019 (Wings of Mercy, Inc.) to transport humans who are in need of medical care to medical facilities.
- Grant of Exemption No. 12627 (Vet Air, Inc.) to allow Vet Air to reimburse its volunteer pilots for fuel costs incurred while conducting charitable flights transporting humans based on exemptions 10009 and 10019.
- Grant of Exemption Nos. 10429A and 10984 (Operation Migration) to allow persons holding a sport pilot certificate to operate weight-shift-control aircraft certificated under 14 CFR § 21.191(i) for compensation or hire to facilitate the migration of endangered whooping cranes.

- Denial of Exemption No. 10194 (HelpFourPaws, Inc.) that would allow for reimbursement of its volunteer pilots for fuel, rental, oil, and/or airport expense costs incurred while conducting flights transporting animals in need of veterinary care, transportation to veterinary facilities, or other animal rescue.

The TF2 petition is similar to the Operation Migration exemption except that TF2 flights carry the endangered turtles in the aircraft instead of leading the endangered cranes in flight. Both TF2 and Operation Migration are charitable efforts to save endangered animals.

In the HelpFourPaws petition, the FAA determined that the passenger or animal caretaker or owner, not the pilot, would dictate the choice of destination such as a veterinary treatment facility, veterinary hospital or animal rescue facility. A volunteer pilot's sole purpose in making the flight would be to provide transportation for the animal to seek veterinary treatment or transport away from a harmful or potentially lethal environment. Reimbursement for the pro rata share of operating expenses for transporting animal cargo, and potentially passengers in support of the animal cargo, to a veterinary treatment facility or other animal rescue facility would constitute compensation and would be considered a commercial operation for which a part 119 operator's certificate would be required. This is further supported by an FAA legal interpretation to Joseph A. Kirwan dated May 27, 2005, in which the FAA determined that charitable human medical flights that involve point-to-point transportation for which any kind of compensation is received would be considered a commercial operation.

While TF2 proposes a similar operation to that of HelpFourPaws, that similarity does not mean that the situations are indistinguishable and that relief may be appropriate in one case versus the other case. The FAA has found that the charitable efforts of pilots who volunteer their time and piloting services are commendable and has, therefore, allowed some very limited exceptions to § 61.113(c) to permit the transport of humans in need of medical care by private pilots without requiring a pro rata distribution of expenses. However, these exemptions have been limited to situations in which human life and health have been the primary considerations. Although providing similar assistance to animals may be a good cause, a petitioner must demonstrate that relief is sufficiently in the public interest to justify exempting such operations from the regulations. In considering the TF2 petition, the FAA recognizes that TF2 efforts are to save sea turtles which have been identified by the federal government as an endangered species (<https://www.fisheries.noaa.gov/sea-turtles>). The FAA believes that granting this exemption supports and encourages sea turtle preservation, which is in the public interest.

The relief required by the petitioner for private pilots to be reimbursed for fuel costs requires relief from § 61.113(c). Because these rescue flights may include a human attendant, the petitioner also requires relief from § 61.113(a) as the flights may include a second pilot and/or a human attendant for the turtles.

The FAA notes that the conditions and limitations prescribed for TF2 are the same conditions and limitations for charitable medical flights for humans. In abiding by these conditions and limitations, the FAA finds there would be no adverse impact on the safety of these operations.

### **The FAA's Decision**

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 106(f), 40113, and 44701, delegated to me by the Administrator, I hereby grant Turtles Fly Too, Inc. (TF2) an exemption from 14 CFR § 61.113(a) and (c) to the extent necessary to allow TF2 to reimburse its volunteer pilots for fuel costs incurred while transporting rescued sea turtles to rehabilitation facilities, subject to the conditions and limitations listed below.

### **Conditions and Limitations**

1. The following definitions apply for the purposes of this exemption—
  - a. Charitable Sea Turtle Rescue Flight (CSTRF): A flight operation to provide transportation for endangered sea turtles for relocation purposes, with an associated caretaker, if the aircraft owner or operator has volunteered to provide such transportation.
  - b. Volunteer Pilot Organization (VPO) is defined as an organization that:
    - i. Is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of such Code; and
    - ii. Is organized for the primary purpose of providing, arranging, or otherwise fostering charitable transportation for endangered and threatened sea turtles.
2. Before exercising the privileges of this exemption, TF2 must ensure it meets the definition of a VPO and that the flight meets the definition of a CSTRF, as specified in Condition and Limitation No. 1. TF2 must receive a determination by the Internal Revenue Service (IRS) that the organization meets the requirements for 501(c)(3) tax-exempt status before exercising the privileges of this exemption.
3. This exemption may be exercised only for CSTRFs conducted by TF2. A CSTRF includes flights that are intended to reposition the aircraft to the pick-up location, as well as reposition the aircraft following the drop-off. Repositioning flights must be between the aircraft home base and the point of pick-up/drop-off by the most practical route. The CSTRF, including repositioning flights, may not carry any occupant other than the flight crew of one or two qualified pilots and one attendant, age 21 or older, whose purpose on the CSTRF is to care for the turtles on the transport leg(s).
4. TF2 must ensure the following items are available to any representative of the FAA Administrator, upon request—
  - a. A detailed description of TF2's process for verification of pilot qualification and training. This process must include a means to verify pilots' qualifications to act as pilot-in-command (PIC) prior to each flight;

- b. Documentation showing all TF2 pilots' flight experience, airman certificate information, and currency of FAA medical certificate;
  - c. Documentation from each pilot showing that, at the time he/she accepts a CSTRF under this exemption, he/she meets all minimum standards and appropriate currency requirements established by TF2, 14 CFR part 61, and all conditions and limitations of this exemption; and
  - d. Documentation of each flight and reimbursement containing the following information, at a minimum:
    - i. Name and pilot certificate number of the PIC;
    - ii. Name and identifier of the departure and arrival airports;
    - iii. Names of all occupants of the airplane excluding the PIC;
    - iv. Date and time of departure and arrival; and
    - v. Amount of the fuel reimbursement.
  - e. All the documentation required under Condition and Limitation Nos. 4 and 12-14 must be maintained by TF2 for a minimum of 24 calendar months after the CSTRF.
5. All pilots operating under the terms of this exemption must possess the following certificates, qualifications and aeronautical experience —
- a. At least a private pilot certificate with instrument rating or Airline Transport Pilot (ATP) certificate that is appropriate to the aircraft being flown;
  - b. A minimum total time of 500 hours, with no less than 400 hours as PIC, and a minimum of 50 hours in the specific make and model of the aircraft being flown;
  - c. A minimum of 50 hours as PIC must have been logged within the 12 calendar months immediately preceding the month of the flight;
  - d. A minimum of 12 hours flown and logged within the 3 calendar months prior to the month of flight. In lieu of this requirement, a pilot may have logged 2 hours of flight training with a certificated flight instructor within the 3 calendar months prior to the month of the flight;
  - e. A second-class medical certificate (per §§ 61.23(a)(2)(ii) and 61.2);
  - f. A current flight review (per § 61.56(a)) in the same aircraft category, class, and type (if a type rating is required) being flown;
  - g. Within the preceding 12 calendar months, have accomplished an instrument proficiency check (IPC) meeting the requirements of § 61.57(d). The IPC must be conducted in accordance with the Instrument Rating Practical Test Standards or Airman Certification Standards, as applicable. This requirement can be substituted by an FAA practical test for an ATP certificate or instrument rating.

- h. In addition to meeting the IPC requirement of § 61.57(d) as specified in Condition and Limitation No. 5(g), the pilot must meet the recent flight experience requirements of § 61.57(c), in the same aircraft category, class, and type (if a type rating is required) being flown;
  - i. For all night operations under this exemption, the pilot must meet the recent flight experience requirements for night operations (per § 61.57 (b)) in an aircraft of the same category, class, and type (if a type rating is required).
6. All operations under this exemption must be in compliance with the following flight duty, rest, and flight time limitations (a duty day starts when the pilot arrives at the airport and begins preparation for the flight and terminates upon completion of the post flight inspection of the aircraft) —
- a. No pilot may fly more than 8 hours of flight time, as defined in 14 CFR part 1, Section 1.1, within any 24-consecutive-hour duty day period;
  - b. No pilot may perform a duty day in excess of 12 consecutive hours; and
  - c. Once the pilot has performed 12 consecutive hours of duty, the pilot must rest a period of at least 12 hours before conducting any other CSTRF.
7. Prior to each takeoff, the PIC must ensure that any additional pilot and any attendant, if carried, have been orally briefed on the following—
- a. The flight is being permitted under this grant of exemption and that the operator is not a certificated commercial operator;
  - b. When, where, and under what conditions smoking is allowed;
  - c. Use of safety belts and shoulder harness. When, where, and under what conditions it is necessary to fasten safety belts and, if installed, shoulder harnesses;
  - d. The placement of seat backs in an upright position before takeoff and landing;
  - e. Location and means for opening the passenger entry door and emergency exits;
  - f. Location of survival equipment;
  - g. Use of normal and emergency oxygen, if installed; and
  - h. Location and operation of fire extinguishers.

An FAA sample briefing document can be found in the July/August 2014 edition of the FAA Safety Briefing Magazine, located online at:

[http://www.faa.gov/news/safety\\_briefing/2014/media/JulAug2014.pdf#page=26](http://www.faa.gov/news/safety_briefing/2014/media/JulAug2014.pdf#page=26)

8. TF2 must implement procedures to notify the attendant, if on the flight, that the flight operation is for charitable purposes and is not subject to the same FAA requirements as a commercial flight. These procedures must allow for the notification to be given as early as possible to the attendant. Such notification must

also be provided to any individual that inquires about receiving or scheduling a CSTRF.

9. Each aircraft operated under this exemption must have a standard airworthiness certificate and comply with all other parts of 14 CFR part 91.
10. The aircraft must be maintained and inspected in accordance with 14 CFR part 91, Subpart E, 14 CFR part 43, or other inspection programs approved by the FAA.
11. All pilots operating under this exemption must comply with the following requirements:
  - a. All flights operated under this exemption must activate an IFR flight plan. The earliest the flight plan may be canceled is upon visual contact with the destination airport;
  - b. For flights in instrument meteorological conditions (IMC), each pilot may only use airports that have a functioning, published, precision approach procedure;
  - c. Each pilot must add 100 feet and ½ mile to all instrument approach minimums;
  - d. Each pilot must add 50 percent to pilot operating handbook (POH) runway length performance for obstacle clearance on takeoff and landing under ambient conditions;
  - e. For IMC takeoff minimums, each pilot must ensure that the weather meets approach landing minimums with the additional margin noted in Condition and Limitation No. 11(c) (Example: If the Baltimore-Washington International Airport minimums are 200/1/2, then the takeoff minimums will be at least 300 feet and 1 statute-mile visibility);
  - f. Each pilot will utilize and brief the attendant, if onboard, about sterile cockpit procedures as defined under § 135.100.
12. TF2 must develop and implement a preflight risk assessment tool. The tool must be completed by the PIC before each flight and must be transmitted to TF2 prior to takeoff for any flight operated under this exemption. The completed tool must be retained by TF2 for a minimum of 30 days. TF2 must identify a maximum score flight value, or other appropriate measure, that is permissible for a flight to be initiated under this exemption. Sample risk assessment tools are available from the following sources:
  - i. FAA Information for Operators (InFO) 07015:  
[http://www.faa.gov/other\\_visit/aviation\\_industry/airline\\_operators/airline\\_safe\\_ty/info/all\\_infos/media/2007/info07015.pdf](http://www.faa.gov/other_visit/aviation_industry/airline_operators/airline_safe_ty/info/all_infos/media/2007/info07015.pdf).
  - ii. The AOPA Flight Risk Evaluator: <http://flash.aopa.org/asf/flightrisk/>

The FAA recognizes that any sample tool used to assess any potential safety risk during preflight planning should be modified to adequately address the risk for general aviation aircraft and TF2's specific operation. As an example, the sample Flight Risk Assessment Tool as outlined in InFO 07015 scores icing as a risk value

of 5 when it is moderate to severe. However, for most general aviation aircraft, known icing conditions of any value should be considered grounds for cancellation or postponement of a flight.

13. TF2 must develop and implement an initial pilot ground training program that includes the following—
  - a. Principles and methods for determining weight and balance, and runway limitations for takeoff and landings;
  - b. Completion of the online AOPA Foundation Air Safety Institute Course: *Public Benefit Flying: Balancing Safety and Compassion*;
  - c. Completion of the online AOPA Foundation Air Safety Institute Course: *Single Pilot IFR*; and
  - d. Providing the pilot with a copy of this exemption and requiring the pilot to become familiar with the conditions and limitations.
14. Recurrent training is required for all pilots operating under this exemption. The annual recurrent training program must include verification that each pilot is adequately trained, current, and proficient on all of the elements in the TF2 initial pilot training program described in Condition and Limitation No. 13.
15. TF2 may not exercise the privileges of this exemption unless TF2 receives verification indicating acceptance of the TF2 risk assessment tool (Condition and Limitation No. 12) and the initial and recurrent pilot ground training program (Condition and Limitation Nos. 13 and 14) from the FAA General Aviation & Commercial Division (AFS-800). This document may be sent to the FAA Airman Training and Certification Branch, 800 Independence Ave., S.W., Washington, DC 20591 or via e-mail to 9-AFS-800-Correspondence@faa.gov.
16. TF2 must maintain a copy of the aircraft logbook entry for the most recent annual inspection of any aircraft used to conduct flights under this exemption.
17. The privileges of this exemption may be exercised only for flights within the District of Columbia and the 48 contiguous United States. This exemption is not valid for operations in airspace outside of the United States or in an intrastate operation that involves flight through international airspace.



18. The FAA may, at any time or place, conduct inspections of the pilots, aircraft, and any records required to be kept in accordance with this exemption.

This exemption terminates on July 31, 2020, unless sooner superseded or rescinded.

Issued in Washington, D.C., on July 17, 2018.

/s/

John S. Duncan

Executive Director, Flight Standards Services